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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/689,557 | 10/20/2003 | Borden M. Larson | 20238.18CON | 8391 |

7590

03/07/2006

Allen, Dyer, Doppelt, Milbrath & Gilchrist, P. A.
Suite 1401
225 South Orange Avenue
P.O. Box 3791
Orlando, FL 32802-3791

EXAMINER

VASUDEVA, AJAY

ART UNIT

PAPER NUMBER

3617

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/689,557 | Applicant(s) LARSON ET AL. | |
| | Examiner Ajay Vasudeva | Art Unit 3617 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5 is/are allowed.
- 6) ☒ Claim(s) 6-9, 11-13 and 16 is/are rejected.
- 7) ☐ Claim(s) 10, 14 and 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 6, 8, 9, 11-13, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 04-071985 A ('985).

JP ('985) discloses an apparatus (fig. 1) having a vessel [1] with an operator's station located amidships (fig. 2), and a skeletal frame [50] fitted above the vessel and having a rope attachment point [5]. The towing frame has vertical supports, and a horizontal bridging portion located forward of the operator's station (fig. 1 and 2). The skeletal frame is capable of towing a human performer behind the boat by rearwardly extending a tow rope above or below the boat.

Because the skeletal frame is capable of supporting the entire weight of a personal watercraft, it is considered to be structurally strong for towing a human performer.

Applicant is reminded that any functional limitation(s) following the term "**for**" -- such as "**for** supporting an elevated tow rope attachment point" and "**for** attaching a tow rope **for** towing the performer" -- is merely an intended use limitation, and therefore is not accorded patentable weight.

3. Claims 6-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Hauser (US 2,997,188 A).

Hauser discloses an apparatus (fig. 1) having a vessel [11] with an operator's station located at least amidships (fig. 2), and a skeletal frame [33]. The skeletal frame has vertical

Art Unit: 3617

supports [34, 35] rotatably attached to the vessel and has a rope attachment point [61].

Although the towing frame does not have a horizontal bridging portion, the portion at the juncture of the vertical supports is considered to be the central portion required in claim 6. The central portion of the frame is located forward of the operator's station. The skeletal frame is capable of towing a human performer behind the boat by rearwardly extending a tow rope above the boat.

Because the skeletal frame is designed to handle loads, it is considered to be structurally strong for towing a human performer.

Applicant is reminded that any functional limitation(s) following the term "**for**" -- such as "**for** supporting an elevated tow rope attachment point" and "**for** attaching a tow rope **for** towing the performer" -- is merely an intended use limitation, and therefore is not accorded patentable weight.

Allowable Subject Matter

4. Claims 10, 14 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments filed 12/12/2005 regarding the 102(b) rejection based on McCulloh are persuasive, and therefore, such rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of JP 04-071985 A and Hauser (US 2,997,188 A).

Conclusion

6. This action is a Non-Final action.

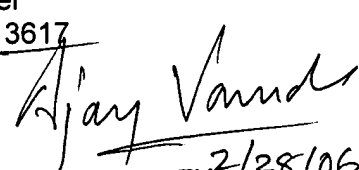
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ajay Vasudeva whose telephone number is (571) 272-6689. The examiner can normally be reached on Monday-Friday 12:00 -- 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AV

Ajay Vasudeva
Examiner
Art Unit 3617


AJAY VASUDEVA 2/28/06
PATENT EXAMINER